LOS-ANGELES WATERKEEPER®

VIA CERTIFIED MAIL

December 3, 2013

Bel Art Transfer Station
Attn: Managing Agent
2495 East 68th Street
Long Beach, CA 90805

Republic Services, Inc.
18500 North Allied Way
Phoenix, AZ 85054

Consolidated Disposal Service, LLC
18500 N. Allied Way
Phoenix, AZ 85054

VIA U.S MAIL

C T Corporation System
Registered Agent for Consolidated Disposal Service, LLC
818 W. Seventh Street
Los Angeles, CA 90017

C T Corporation System
Registered Agent for Republic Services, Inc.
818 W. Seventh Street
Los Angeles, CA 90017

Re: Notice of Violation and Intent to File Suit under the Federal Water Pollution Control Act

To Whom It May Concern:

I am writing on behalf of Los Angeles Waterkeeper ("Waterkeeper") regarding violations of the Clean Water Act[1] and California's General Industrial Storm Water Permit ("Storm Water Permit")[2] occurring at the Bel Art Transfer Station facility located at 2495 East 68th Street, Long Beach, California 90805 ("Bel Art Facility" or "Facility"). The purpose of this letter is to put the owners and/or operators of the Bel Art Facility[3] on notice of the violations of the Storm Water Permit occurring at the Bel Art Facility, including, but not limited to, violations caused by discharges of polluted storm water from the Bel Art Facility into local surface waters and the failure to comply with the substantive and procedural requirements of the Storm Water Permit. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the Bel Art Facility owners and/or operators are liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. Notice must be given to the

[1] Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*
[2] National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ.
[3] The Bel Art Facility owners and/or operators are described in detail in Section I.B below.

alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1).

By this letter issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, (hereinafter "Notice Letter"), Waterkeeper puts the Bel Art Facility owners and/or operators on notice that after the expiration of sixty (60) days from the date of this Notice Letter, Waterkeeper intends to file an enforcement action in federal court against them for violations of the Storm Water Permit and the Clean Water Act.

I. Background

A. Los Angeles Waterkeeper

Waterkeeper is a non-profit 501(c)(3) public benefit corporation organized under the laws of California with its main office at 120 Broadway, Suite 105, Santa Monica, California 90401. Founded in 1993, Waterkeeper has approximately 3,000 members who live and/or recreate in and around the Los Angeles area. Waterkeeper is dedicated to the preservation, protection, and defense of the rivers, creeks, and coastal waters of Los Angeles County from all sources of pollution and degradation. To further this mission, Waterkeeper actively seeks federal and state implementation of the Clean Water Act. Where necessary, Waterkeeper directly initiates enforcement actions on behalf of itself and its members.

Members of Waterkeeper reside in Los Angeles County, near the Los Angeles River and the Los Angeles Estuary. As explained in detail below, the owners and/or operators of the Bel Art Facility have continuously discharged pollutants into the Los Angeles River, which flows into the Los Angeles River Estuary, the Los Angeles/Long Beach Harbor, the San Pedro Bay, the Long Beach City Beach, and the Pacific Ocean (collectively "Receiving Waters"), in violation of the Clean Water Act and the Storm Water Permit. Waterkeeper members use these waters and beaches to swim, boat, dive, and kayak. Waterkeeper members also use the path alongside the Los Angeles River to bird watch, view wildlife, hike, bike, walk, and run. Additionally, Waterkeeper members use these waters to engage in scientific study through pollution and habitat monitoring and restoration activities, including Waterkeeper's Marine Program, Kelp Restoration Project, Marine Protected Areas Watch Project, Watershed Program, and Drain Watch Program. The unlawful discharge of pollutants from the Bel Art Facility into the Receiving Waters impairs Waterkeeper members' use and enjoyment of these waters. Thus, the interests of Waterkeeper's members have been, are being, and will continue to be adversely affected by the Bel Art Facility owners' and/or operators' failure to comply with the Clean Water Act and the Storm Water Permit.

B. The Bel Art Owners and/or Operators

Information available to Waterkeeper indicates that the Bel Art Facility is owned and/or operated by the following companies: Republic Services, Inc., Consolidated Disposal Service LLC, and the Bel-Art Waste Transfer Station.[4] Waterkeeper refers to Republic Services, Inc., Consolidated Disposal Service, LLC, and the Bel-Art Waste Transfer Station collectively as the "Bel Art Owners and/or Operators." As explained herein, the Bel Art Facility Owners and/or Operators are liable for violations of the Storm Water Permit and the Clean Water Act.

Republic Services, Inc. is primarily a municipal solid waste ("MSW") management company. Information available to Waterkeeper indicates that Republic Services, Inc. is doing business at the Bel Art Facility as Consolidated Disposal Services, LLC.[5]

Information available to Waterkeeper indicates that Republic Services, Inc. is an active corporation registered in California. Information available to Waterkeeper indicates Consolidated Disposal Service, LLC is an active limited liability company registered in California. The Registered Agent for Republic Services, Inc. and Consolidated Disposal Service, LLC is C T Corporation System, 818 West Seventh Street, Los Angeles, California 90017.

C. The Bel Art Facility's Permit Coverage and Group Monitoring Plan

Prior to beginning industrial operations, dischargers are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") to obtain Storm Water Permit coverage. *See* Storm Water Permit, Finding #3. The Bel Art Owners and/or Operators submitted the NOI for the Bel Art Facility on April 10, 2002. The NOI identified the facility operator name and address as "Bel Art Transfer Station, 2495 E. 68th Street, Long Beach, CA 90805." The NOI identified the

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[4] On June 26, 2009, "Bel-Art Waste Transfer Station" was registered as a Fictitious Business Name with the Los Angeles County Registrar-Recorder's office by Consolidated Disposal Service, LLC 18500 North Allied Way Phoenix, Arizona 85054. The Fictitious Business Name Statement lists the facility address as 2495 East 68th Street, Long Beach, California 90805 and states that Bel-Art Waste Transfer Station began to conduct business on August 14, 1998.

[5] Information available to Waterkeeper indicates that Consolidated Disposal Services, Inc. was not a corporation registered in California. Instead the company's name was Consolidated Disposal Service, LLC, which now operates as a part of and appears to be owned by Republic Services, Inc. Republic Services Inc.'s website currently states, "Consolidated Disposal Service is now Republic Service." In addition, although the Bel Art SWPPP states that it is owned and operated by "Republic Services, LLC," information available to Waterkeeper indicates that this entity has never existed in California. There are five active LLCs in California containing "Republic Services" in their names; however none of these LLCs are simply "Republic Services LLC." Regardless, information available to Waterkeeper indicates that Republic Services, Inc. and Consolidated Disposal Service LLC are the owners and/or operators of the Bel Art Facility.

facility name and address as "Bel Art Waste Transfer, 2501 E. 68th Street, Long Beach, CA 90805."[6] The State Board approved the Bel Art Facility NOI on April 23, 2002. The NOI approval letter for the Bel Art Facility lists the Waste Discharge Identification ("WDID") number for the Bel Art Facility as 4-19I017207. The approval letter identifies the Facility operator and information as "Consolidated Disposal Services LLC, Bel Art Transfer Station, 2501 E. 68th Street, Long Beach."

Republic Services, Inc. submitted a Group Monitoring Plan Application for 12 of its facilities, including the Bel Art Facility, on August 25, 2008, pursuant to Section B(15) of the Storm Water Permit. Information available to Waterkeeper indicates that this Group Monitoring Plan ("GMP") was approved and the Bel Art Facility Owners and/or Operators have been following it since the 2008-2009 Wet Season.[7] Pursuant to the GMP, the Bel Art Facility Owners and/or Operators were required to collect and analyze storm water samples at the Facility during the 2009-2010 and 2012-2013 Wet Seasons. The 2012-2013 Annual Group Evaluation Report submitted on behalf of Republic Services, Inc., which includes the Bel Art Facility, states that all facilities involved in the GMP are discontinuing GMP participation starting in the 2013-2014 Wet Season.

D. Bel Art Facility Standard Industrial Classification Codes

The Storm Water Permit requires facility operators to submit "Facility Site Information" in the NOI. Storm Water Permit, Attachment 3 at 3. "Facility Site Information" must include the Standard Industrial Classification ("SIC") Code identifying the industrial activities taking place at the facility. *Id.* A facility must include all activities that take place at a facility in the Facility Site Information. *Id.* The Bel Art Facility's NOI lists its SIC Codes as 4953 (Refuse Systems)[8] and 5093 (Scrap and Waste Materials). Information available to Waterkeeper indicates that the Bel Art Facility is used to collect and transport refuse, so to comply with the Storm Water Permit, its NOI should also include SIC Code 4212 (Local Trucking Without Storage) as applicable to the entire Facility. These SIC Codes are relevant to evaluate the Bel Art Facility Owners' and/or Operators' compliance with the Permit's monitoring requirements, including sample collection and analysis and assessment of potential pollutant sources, as well as compliance with the Storm Water Permit's Effluent Limitations and the mandate to implement measures meeting the best available technology economically achievable ("BAT") and best

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[6] Information available to Waterkeeper, including the Facility's SWPPP, Fictitious Business Name Statement, and Annual Reports, indicates that although the Bel Art Owners and/or Operators listed "2501 E. 68th Street, Long Beach, CA 90805" as the Facility address in the NOI, the Facility's address appears to be "2495 E. 68th Street, Long Beach, CA 90805," which is also listed as the Facility operator's address in the NOI.

[7] The Wet Season is defined as October 1 – May 31.

[8] The applicable sector for the Facility's SIC Code 4953 under the Storm Water Permit is "Hazardous Waste Treatment Storage or Disposal Facilities." *See* Storm Water Permit, Table D.

conventional pollutant control technology ("BCT") standards required by the Clean Water Act and Storm Water Permit.

E. Storm Water Pollution and Receiving Waters

With every significant rainfall event, millions of gallons of polluted rainwater, originating from numerous Los Angeles industrial operations such as the Bel Art Facility, pour into storm drains and Los Angeles area surface waters. The consensus among regulatory agencies and water quality experts is that storm water pollution accounts for more than half of the total pollution entering marine and river environments annually. According to the National Research Council's "Report on Urban Storm Water," storm water runoff is "a principal contributor to water quality impairment of waterbodies nationwide."[9] This discharge of pollutants from industrial facilities in storm water contributes to the impairment of downstream waters and aquatic dependent wildlife. A water body is impaired if it is unable to support its beneficial uses, as described below.

Discharges from recycling and transfer facilities such as the Bel Art Facility contain pollutants such as: oil and grease ("O&G"); total suspended solids ("TSS"); hydraulic and other fuels; lubricants; heavy metals such as copper, iron, lead, aluminum, and zinc; antifreeze; brake fluid; transmission fluid; solvents; dirt, dust, and debris; pathogens (including bacteria); nutrients; chemical oxygen demand ("COD"); trash; and water-based detergents. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and developmental or reproductive harm. Discharges of polluted storm water and non-storm water to the Receiving Waters via the storm drain system pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The Regional Board issued the *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura County* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of the portions of the Los Angeles River Watershed (including the Receiving Waters) that receive polluted storm water discharges from the Bel Art Facility. These Beneficial Uses include: water contact recreation ("REC 1"), non-contact water recreation ("REC 2"), warm freshwater habitat ("WARM"), ground water recharge ("GWR"), wildlife habitat ("WILD"), wetland ("WET"), estuarine habitat ("EST"), industrial service supply ("IND"), navigation ("NAV"), marine habitat ("MAR"), commercial fishing ("COMM"), rare, threatened, or endangered ("RARE"), migration of aquatic organisms ("MIGR"), and spawning, reproduction and/or early development ("SPWN"). *See* Basin Plan, Table 2-1. According to the 2010 303(d) List of Impaired Water Bodies, Reaches 1 and 2 of the Los Angeles River are impaired by pollutants such as pH, cyanide, diazinon, lead, nutrients, ammonia, cadmium, coliform bacteria, copper,

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[9] National Research Council of the National Academies, "Urban Stormwater Management in the United States," vii (2008).

trash, zinc, and oil.[10] The Los Angeles River Estuary is impaired by, among other pollutants, chlordane, sediment toxicity, and trash. The Los Angeles/Long Beach Harbor is impaired by at least chrysene, copper, sediment toxicity, and zinc. The San Pedro Bay is impaired by sediment toxicity, and the Long Beach City Beach, one of the San Pedro Bay beaches, is impaired by indicator bacteria. Polluted discharges from the Bel Art Facility cause and/or contribute to the degradation of these already impaired surface waters, beaches, and aquatic dependent wildlife. The pollutants discharged into Reaches 1 and 2 of the Los Angeles River flow to the Pacific Ocean via the Los Angeles River Estuary, Los Angeles/Long Beach Harbor, and San Pedro Bay. For the Los Angeles area aquatic ecosystem to regain its health, contaminated storm water discharges, including those from the Facility, must be eliminated.

The Receiving Waters are ecologically sensitive areas. Although pollution and habitat destruction have drastically altered the natural ecosystem, the Receiving Waters are still essential habitat for dozens of fish and bird species, as well as macro-invertebrate and invertebrate species. Storm water and non-storm water contaminated with sediment, heavy metals, and other pollutants harm the special aesthetic and recreational significance that the Receiving Waters have for people in the surrounding communities. The public's use of the Receiving Waters for water contact sports and fishing exposes many people to toxic metals and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the Receiving Waters.

II. The Bel Art Facility and Associated Discharges of Pollutants

A. Bel Art Facility Site Description

Information available to Waterkeeper indicates that the Bel Art Facility is approximately 4.34 acres in size. It is located roughly 0.5 miles west of Paramount Boulevard and 0.5 miles north of the 91 Freeway. Approximately 95% of the site is impervious.

Information available to Waterkeeper indicates that the Bel Art Facility includes four structures. The first structure is a 37,500 square foot transfer station, constructed of steel eye-beams and aluminum siding and roofing, and is enclosed on three sides. The second structure is a 2,475 square foot administrative office building located south of the transfer station. The third structure is a scale house, also located south of the transfer station. The fourth structure is a 15,000 square foot equipment storage and maintenance building. A paint booth is attached to the storage and maintenance building, and an 8,100 square foot canopy-covered wash pad area is adjacent to the maintenance building. The site also consists of an above-ground storage tank for diesel fuel, a tarping station, and employee parking areas.

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[10] 2010 Integrated Report – All Assessed Waters, available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml (last accessed on November 15, 2013).

Vehicles with MSW and other refuse enter the Facility on East 68th Street and go to scales for weighing that are adjacent to the scale house. The refuse consists mostly of MSW but may also contain source-separated recyclables, green waste, and construction and demolition debris, all of which is deposited onto a concrete floor in the transfer station. Recyclable materials, including cardboard, metals, and plastics, are separated from the MSW and placed on the ground in piles or into roll-off boxes. The remaining MSW is then loaded into transfer trailer trucks that enter the loading area on a ramp west of the transfer station. The trucks drive the MSW through an underground tunnel north of the transfer station, and transport it to landfills for disposal. Bins are then washed at the wash pad. Information available to Waterkeeper indicates that piles of materials sent to the Facility for recycling and/or disposal are also stored uncovered throughout the Facility.

B. Bel Art Facility Industrial Activities and Pollutant Sources

The Bel Art Facility is used for MSW processing, which includes weighing, unloading, sorting, temporary storage, and transfer of non-recyclable and recyclable materials. Transfer trailer trucks move residual non-recyclable materials to an offsite landfill. Additional industrial activities conducted at the Bel Art Facility include bin maintenance (cleaning, repairing, welding, and painting) and storage, truck and equipment washing, equipment fueling, parking, staging of bins with MSW, and tarping transfer trailers. Information available to Waterkeeper indicates that industrial activities at the Bel Art Facility are conducted outdoors without adequate cover to prevent storm water exposure to pollutant sources and without secondary containment or other measures to prevent polluted storm water discharges from the Bel Art Facility. Waterkeeper has observed open, exposed piles of recyclables at the Facility. In addition, Waterkeeper has observed MSW blowing out from under the covered storage areas. Waterkeeper also observed tracking of sediments by truck tires from the driveway onto 68th Street and no best management practices ("BMPs") in place to contain pollutants. Further, Waterkeeper has observed an oily sheen on the driveway leading to the street. No runoff conveyances or grates were observed along the driveway onto 68th Street.

C. Bel Art Facility Pollutants

The materials handled at the Bel Art Facility are MSW and recyclable materials. The materials are collected from residential, commercial, and/or industrial customers. Information available to Waterkeeper, including the Facility's own storm water samples, indicates that the pollutants associated with operations at the Bel Art Facility include, but are not limited to: trash (MSW); green waste; heavy metals such as aluminum, copper, iron, lead, and zinc; pathogens (including bacteria); nutrients; pH-affecting substances; antifreeze; brake fluid; transmission fluid; lubrication fluids; solvents and cleaners; O&G; paint; fuel (mainly diesel and red-dye diesel) and fuel additives; TSS; construction and demolition waste; recyclable materials; fugitive and other dust, dirt, and debris; wood; concrete; paper and paper fibers; cardboard; glass; and

plastic. Information available to Waterkeeper, including the Facility's Storm Water Pollution Prevention Plan ("SWPPP"), indicates the Bel Art Facility receives and handles some hazardous wastes together with the MSW and recyclables delivered to the site.

The Bel Art Facility Owners' and/or Operators' failure to develop and/or implement required BMPs results in the exposure of these pollutants associated with the Facility's industrial activities to rainfall, which then discharges into the Receiving Waters, in violation of the Storm Water Permit and the Clean Water Act.

D. Bel Art Facility Discharge Points

Information available to Waterkeeper indicates that there are at least four (4) discharge points at the Bel Art Facility. All discharge points are located at the entrance and exit driveways of the Facility on 68th Street. Storm water runoff is mostly in the form of sheet flow, which flows toward 68th Street by the slope of the site or through one of several drainage swales at the Facility. Bel Art has identified only one sampling point (SP-1) downgradient of the tipping floor and sorting areas near the low-lying truck entrance on 68th street.

Municipal storm drains run along Cherry Avenue to the east of the Facility and along 68th Street to the west of the Facility. Information available to Waterkeeper indicates that storm water discharges from the Bel Art Facility enter municipal storm drains through catch basins and inlets located on surrounding streets. The storm water discharges then flow through the municipal storm drain system until they reach and are discharged into the Receiving Waters.

The Facility has a series of scales, collectors, and clarifiers. There is one collector near the recycling staging area. Another collector and a concrete swale are between the office and scale. Finally, a collector, a concrete swale, and two clarifiers are located between the office and truck wash canopy. Information available to Waterkeeper indicates that storm water from the Facility also discharges to the municipal sanitary sewer system from the two clarifiers located at the Facility. The clarifiers receive storm water collected from several portions of the site and are connected to the municipal sanitary sewer.

III. Violations of the Clean Water Act and the Storm Water Permit

A. Discharges of Polluted Storm Water from the Bel Art Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit

Effluent Limitation B(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through

implementation of BMPs that achieve BAT for toxic pollutants[11] and BCT for conventional pollutants.[12] EPA Benchmarks are objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.[13]

Pursuant to the GMP, the Bel Art Facility was required to collect and analyze storm water samples during the 2009-2010 and the 2012-2013 Wet Seasons. The laboratory results of the sampling demonstrate that storm water discharges from the Facility contain concentrations of pollutants which significantly and consistently exceed EPA Benchmarks. The table below sets forth the results of sampling conducted by the Bel Art Facility Owners and/or Operators. Each sample result listed demonstrates an EPA Benchmark exceedance.

Sampling Conducted by the Bel Art Facility Owners and/or Operators Demonstrating Benchmark Exceedances

Date of Sample	Sample Location	Constituent	EPA Benchmark[14]	Sample Value	Magnitude of Exceedance[15]
10/14/2009	SP-1	Zinc	0.11	0.46	4.18
10/11/2012	SP-1	TSS	100	218	2.18
10/11/2012	SP-1	COD	120	1400	11.66
10/11/2012	SP-1	SC	200	1700	8.5
10/11/2012	SP-1	Aluminum	0.75	4.86	6.48
10/11/2012	SP-1	Iron	1.0	7.63	7.63
10/11/2012	SP-1	Copper	0.0123	0.217	17.64
10/11/2012	SP-1	Zinc	0.11	2.63	23.63
01/24/2013	SP-1	Zinc	0.11	0.576	5.23

[11] Toxic pollutants include heavy metals, such as copper, lead, and zinc, among others. *See* 40 C.F.R. § 401.15.

[12] Conventional pollutants include biochemical oxygen demand, TSS, O&G, pH, and fecal coliform, among others. *See* 40 C.F.R. § 401.16.

[13] *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP)*, as modified effective May 27, 2009 ("Multi-Sector Permit").

[14] EPA Benchmark Values for all constituents in the tables in this Notice Letter are measured in units of mg/L, except specific conductance ("SC"), which is measured in umhos/cm.

[15] The magnitude of exceedance values in this table and in the subsequent table was calculated by taking the Sample Value and dividing it by the EPA Benchmark (or CTR criteria in the table below). For example, the first Zinc sample value (taken on 10/14/2009) of 0.46 divided by 0.11 (EPA Benchmark for Zinc) equals 4.18. Thus the sample taken on 10/14/2009 is 4.18 times the EPA Benchmark for Zinc.

Information available to Waterkeeper, including sampling data exhibiting consistent exceedances of EPA Benchmarks, demonstrates that the Bel Art Facility Owners and/or Operators have failed and continue to fail to develop and/or implement BMPs at the Bel Art Facility that achieve compliance with the BAT/BCT standards.

Waterkeeper puts the Bel Art Facility Owners and/or Operators on notice that they violate Effluent Limitation B(3) of the Storm Water Permit every time they discharge storm water from the Bel Art Facility without BMPs that achieve BAT/BCT. *See, e.g.,* Exhibit A (setting forth dates of discharges). These discharge violations are ongoing and will continue every time the Bel Art Facility Owners and/or Operators discharge polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Waterkeeper will update the dates of violations when additional information and data become available. Each time the Bel Art Facility Owners and/or Operators discharge polluted storm water in violation of Effluent Limitation B(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Bel Art Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since December 3, 2008.

B. Discharges of Polluted Storm Water from the Bel Art Facility in Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact human health or the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS").[16] Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

Storm water sampling demonstrates that discharges from the Bel Art Facility contain elevated concentrations of pollutants such as copper and zinc, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. Storm water

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[16] WQSs include pollutant concentration levels determined by the State Board and the EPA to be protective of the Beneficial Uses of the receiving waters. Discharges above WQSs contribute to the impairment of the receiving waters' Beneficial Uses. Applicable WQSs include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"). The Basin Plan also sets out additional applicable WQSs.

sampling at the Bel Art Facility also demonstrates that discharges contain concentrations of pollutants that cause or contribute to an exceedance of an applicable WQS. The table below sets forth the results of sampling conducted by the Bel Art Facility Owners and/or Operators. Each sample result demonstrates violations of Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2).

Sampling Demonstrating Exceedances of Water Quality Standards

Date of Sample	Sample Location	Constituent	CTR Criteria[17]	Sample Value[18]	Magnitude of Exceedance[19]
10/14/2009	SP-1	Copper	0.011	0.0117	1.06
10/14/2009	SP-1	Zinc	0.099	0.46	4.64
10/11/2012	SP-1	Copper	0.011	0.217	19.72
10/11/2012	SP-1	Zinc	0.099	2.63	26.56
1/24/2013	SP-1	Zinc	0.099	0.576	5.81

In addition, information available to Waterkeeper indicates pathogens (including fecal indicator bacteria) are discharged from the Bel Art Facility in violation of Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2).

Waterkeeper puts the Bel Art Facility Owners and/or Operators on notice that Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2) of the Storm Water Permit are violated each time polluted storm water discharges from the Bel Art Facility. Information available to Waterkeeper indicates that these violations are ongoing and occur every time the Bel Art Facility Owners and/or Operators discharge storm water from the Bel Art Facility. Waterkeeper will update the dates of violation when additional information and data become available. Each time discharges of storm water from the Facility adversely impact human health

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[17] The CTR criteria for "priority toxic pollutants" are set forth in 40 C.F.R. § 131.38. These criteria are expressed as dissolved metal concentrations in the CTR. However, the Storm Water Permit requires permittees to report their sample results as total metal concentrations. *See* Storm Water Permit, Section B(10)(b). In order to compare the sample results reported in the Bel Art Facility's Annual Reports with the CTR criteria, Waterkeeper used the CTR criteria converted to total metal concentrations set forth in the State Board's "Water Quality Goals" database, available at http://www.waterboards.ca.gov/water_issues/programs/water_quality_goals/. The formula used to convert the CTR criteria to total metal concentrations is set forth in the CTR at 40 C.F.R. § 131.38(b)(2)(i). The CTR criteria for each pollutant is based on a hardness of 80 mg/L for the Los Angeles River. *See Total Maximum Daily Loads for Metals, Los Angeles River and Tributaries*, California Regional Water Quality Control Board, Los Angeles Region, June 2, 2005 (stating that the median hardness of the Los Angeles River is 80 mg/L based upon Los Angeles County Department of Public Works data from Wardlow Station from 1996 to 2002).

[18] CTR criteria and sample results for this table are measured in units of mg/L.

[19] *See* footnote 15, above.

or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Each time discharges of storm water from the Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act. The Bel Art Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since December 3, 2008.

C. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan in Violation of Section A and Provision E(2) of the Storm Water Permit

Section A(1) and Provision E(2) of the Storm Water Permit require dischargers to have developed and implemented a SWPPP prior to beginning industrial activities that meets all of the requirements of the Storm Water Permit.[20] The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Bel Art Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9) and revised as necessary. *See* Storm Water Permit, Sections A(9) and A(10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a pollution prevention team; a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system(s), structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity, *see* Section A(4); a list of significant materials handled and stored at the site, *see* Section A(5); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur. *See* Section A(6)). Sections A(7) and A(8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and

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[20] Moreover, the Storm Water Permit flatly prohibits unauthorized non-storm water discharges, under Discharge Prohibition A(1). Information available to Waterkeeper, however, indicates that non-storm water discharges occur at the Bel Art Facility from sources such as dripping hoses and the wash station.

authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

Information available to Waterkeeper indicates that the Bel Art Facility Owners and/or Operators have been conducting and continue to conduct industrial operations at the Bel Art Facility with an inadequately developed, implemented, and/or revised SWPPP. Although the Facility's SWPPP appears to be facially adequate, it does not achieve the Storm Water Permit's objective for the SWPPP, which is "to identify and implement site-specific [BMPs] to reduce or prevent pollutants associated with industrial activities in storm water discharges and authorized non-storm water discharges." Storm Water Permit, Section A(2). The high pollutant concentrations in the Facility's storm water samples since at least December 3, 2008 demonstrate the failure of the Facility's BMPs to reduce or prevent pollutants associated with industrial activities in discharges. While the Facility did submit a SWPPP in 2013, this does not resolve the facility's ongoing failures to adequately implement BMPs. The Facility's SWPPP continues to include inadequate BMPs and any of these BMPs actually implemented at the Facility are similarly inadequate and fail to meet Storm Water Permit SWPPP requirements. *See* Storm Water Permit, Sections A(8) and A(9).

Waterkeeper puts the Bel Art Facility Owners and/or Operators on notice that they violate Section A and Provision E(2) of the Storm Water Permit and the Clean Water Act every day that they operate the Bel Art Facility with an inadequately developed, implemented, and/or revised SWPPP. The Bel Art Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's SWPPP requirements since at least December 3, 2008. These violations are ongoing, and Waterkeeper will include additional violations as information and data become available. The Bel Art Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since December 3, 2008.

D. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program for the Bel Art Facility in Violation of Section B and Provision E(3) of the Storm Water Permit

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate Monitoring and Reporting Program ("M&RP") when industrial activities begin at a facility that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). An adequate M&RP therefore ensures that BMPs are effectively reducing and/or eliminating pollutants at the facility and is evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.*

Sections B(3) – B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges during the first hour of discharge of at least one storm event per month during the Wet Season at each discharge point. Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, O&G, discolorations, turbidity, odor, and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. *See* Storm Water Permit, Sections B(3) and B(4).

Sections B(5) and B(7) of the Storm Water Permit require discharges to collect storm water samples during the first hour of discharge from the first storm event of the Wet Season. A sample must be collected from each discharge point at the facility. Storm water samples must be analyzed for TSS, pH, SC, and total organic carbon ("TOC") or O&G. Facilities classified as SIC Codes 4953 and 5093, such as the Bel Art Facility, must also analyze their storm water samples for ammonia, magnesium, chemical oxygen demand, arsenic, cadmium, cyanide, lead, mercury, selenium, silver, iron, aluminum, copper, and zinc. *See* Storm Water Permit, Table D, Sectors K and N. Facilities must also analyze their storm water samples for "toxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." Storm Water Permit, Section B(5)(c)(ii).

For facility owners and/or operators participating in a GMP, all of the above M&RP requirements apply. *See* Storm Water Permit, Section B(15)(h). During the Wet Season that a GMP participant is selected to collect samples, these samples must be collected in accordance with Section B(5) of the Storm Water Permit. Storm Water Permit, Sections B(15)(b) and (f). For participants in a GMP, each GMP participant must collect and analyze samples from at least two storm events over the five-year period of the Storm Water Permit. *See* Storm Water Permit, Section B(15)(b). GMP participants must comply with all other monitoring program and reporting requirements of the Storm Water Permit during all Wet Seasons. Storm Water Permit, Section B(15)(h).

Information available to Waterkeeper indicates that the Bel Art Facility Owners and/or Operators have been conducting operations at the Bel Art Facility with an inadequately developed, implemented, and/or revised M&RP. For example, the Facility has failed to meet the Permit requirements regarding visual observations. In every Annual Report for the Facility since at least the 2007-2008 Annual Report, the Bel Art Facility Owners and/or Operators have documented visual observations of pollutants in the Facility's storm water discharges, yet these records often indicate that the Facility's BMPs were neither revised nor updated to prevent or reduce these pollutants. *See* Storm Water Permit, B(4)(c). Further, this failure to take steps to reduce or prevent pollutants observed in the Facility's storm water discharges is never explained

in the Facility's Annual Reports. *See* Storm Water Permit, Section B(14).[21] Additionally, the Bel Art Facility Owners and/or Operators have on several occasions failed to conduct observations of unauthorized storm water discharges during daylight hours, and have failed to record the time of observations of authorized storm water discharges, thus failing to demonstrate that discharges were observed during daylight hours and during scheduled facility operating hours. *See* Storm Water Permit, Sections B(3)(c).

Additionally, based on information available to Waterkeeper, the Bel Art Facility has at least four discharge locations. The Facility's SWPPP indicates that runoff flows toward 68th Street, and that most of the runoff flows into swales, collectors, and the clarifier. However, Waterkeeper's observations indicate that runoff is also being discharged from the Facility at four additional exits and/or entrances onto 68th Street. Yet the Bel Art Facility Owners and/or Operators only sample from one discharge location, which the Facility's SWPPP states was selected because it is "considered most representative of site processes." This reasoning misstates the Storm Water Permit's requirements. Section B(5)(a) requires facility operators to sample *all* storm water discharge locations, not merely those "representative" of the facility's runoff, and thus this failure to sample from all discharge locations is a violation of the Storm Water Permit.

The Storm Water Permit requires facilities classified as SIC Code 4953 (Hazardous Waste) to test for additional parameters listed in Table D of the Storm Water Permit, including ammonia, magnesium, arsenic, cadmium, cyanide, mercury, selenium, and silver. *See* Storm Water Permit, Section B(5)(c)(iii), Table D; *see also* Storm Water Permit, Section B(15)(b) (GMP participants must collect and analyze samples in accordance with Section B(5) of the Storm Water Permit). Moreover, as discussed in detail in Sections I.E and II.B and C above, both pathogens (including fecal indicator bacteria) and trash are likely present in the Facility's discharges in significant quantities. Section B(5)(c)(iii) of the Storm Water Permit requires the Bel Art Facility, as a solid waste collection, recycling, and transfer facility, to test for all of these additional parameters. Yet the Bel Art Facility Owners and/or Operators have never done so, in violation of the Storm Water Permit's clear directives. The Facility's Annual Reports also do not include an explanation for this failure to sample for all required parameters. *See* Storm Water Permit, Section B(14).

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[21] Although the 2012-2013 Annual Group Evaluation Report submitted on behalf of Republic Services, Inc. for all facilities participating in the GMP, including the Bel Art Facility, contains a description of corrective actions and new BMPs to be implemented at the Facility, this information must also be provided in the Facility's Annual Reports. *See* Storm Water Permit, Section B(15)(h) (stating that "All participants in an approved GMP that have not been selected to sample in a particular wet season are required to comply with *all* other monitoring program and reporting requirements of this section . . ." (emphasis added)).

Waterkeeper puts the Bel Art Facility Owners and/or Operators on notice that they violate Section B and Provision E(3) of the Storm Water Permit and the Clean Water Act every day that they fail to develop, implement, and/or revise an adequate M&RP. The Bel Art Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least December 3, 2008. These violations are ongoing, and Waterkeeper will include additional violations as information and data become available. The Bel Art Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since December 3, 2008.

E. Failure to Comply with the Storm Water Permit's Reporting Requirements

Section B(14) of the Storm Water Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. The Storm Water Permit, in relevant part, requires that the Annual Report include the following: 1) a summary of visual observations and sampling results; 2) an evaluation of the visual observation and sampling and analysis results; 3) laboratory reports; and 4) an Annual Comprehensive Site Compliance Evaluation Report ("ACSCE Report"). Storm Water Permit, Section B(14). As part of the ACSCE Report, the facility operator must review and evaluate all of the BMPs to determine whether they are adequate or whether SWPPP revisions are needed. *See* Storm Water Permit, Section A(9). The Annual Report must be signed and certified by a duly authorized representative, under penalty of law that the information submitted is true, accurate, and complete to the best of his/her knowledge. *See* Storm Water Permit, Sections B(14), C(9), and C(10).

Information available to Waterkeeper indicates that the Bel Art Facility Owners and/or Operators have failed to comply with Section B(14) of the Storm Water Permit. For example, none of the Facility's Annual Reports provide an explanation of the Bel Art Facility Owners' and/or Operators' failure to take steps to reduce or prevent pollutants observed in the Facility's storm water discharges or to sample for all parameters required by the Storm Water Permit. Further, despite consistent exceedances of WQSs, as discussed above, the Bel Art Facility Owners and/or Operators have never submitted a report describing additional BMPs that will be implemented to prevent or reduce the pollutants that are causing or contributing to the exceedance of these WQSs. *See* Receiving Water Limitation C(3) and C(4).

These examples of failures to assess the Facility's M&RP and respond to its inadequacies in the Annual Reports negates a key component of the evaluation process required in self-monitoring programs such as the Storm Water Permit. Instead, each year the Bel Art Facility Owners and/or Operators disregarded these failures to comply with the Storm Water Permit by simply checking the box on the Annual Report form indicating that they certified compliance with the Storm Water Permit. By providing erroneous information, the Bel Art Facility Owners and/or Operators thereby ensured that violations of the Storm Water Permit would continue, as demonstrated by persistent WQS and EPA Benchmark exceedances, because no changes had been made to correct recurring deficiencies at the Facility. This in itself is a violation of the

Storm Water Permit. *See* Storm Water Permit, Section B(14), Receiving Water Limitations C(3) and C(4).

Waterkeeper puts the Bel Art Facility Owners and/or Operators on notice that their failures to report are violations of the Storm Water Permit and indicate a continuous and ongoing failure to comply with the Storm Water Permit's reporting requirements, including those set forth at Section B(14) and Receiving Water Limitation C(3) and C(4). Every day the Bel Art Facility Owners and/or Operators operate the Bel Art Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Bel Art Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least December 3, 2008. The Bel Art Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since December 3, 2008.

IV. Relief Sought for Violations of the Clean Water Act

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of up to $32,500 per day per violation for all Clean Water Act violations between March 15, 2004 and January 12, 2009, and $37,500 per day per violation for all Clean Water Act violations after January 12, 2009. In addition to civil penalties, pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), Waterkeeper will seek injunctive relief preventing further violations of the Clean Water Act, declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Waterkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

V. Conclusion

Upon expiration of the 60-day notice period, Waterkeeper will file a citizen suit under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), for the above-referenced violations. Waterkeeper is represented by its own legal counsel and Lawyers for Clean Water, Inc. During the 60-day notice period, Waterkeeper is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, it is suggested that you initiate those discussions immediately.

Please direct all communications to Los Angeles Waterkeeper:

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Sincerely,

Liz Crosson
Los Angeles Waterkeeper

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Los Angeles Waterkeeper Notice of Violations and Intent to File Suit—Exhibit A
Days with Significant Rain Events (Rainfall above 0.1 inches)
December 2008-November 2013
AL 383 – Imperial Yard Rain Gauge

Date	Rainfall
12/17/2008	0.66
12/22/2008	0.40
12/25/2008	0.19
1/23/2009	0.22
1/24/2009	0.12
2/5/2009	0.58
2/6/2009	0.59
2/7/2009	0.40
2/9/2009	0.27
2/13/2009	0.28
2/16/2009	1.45
2/17/2009	0.34
3/4/2009	0.73
3/22/2009	0.11
10/13/2009	0.27
10/14/2009	1.00
12/7/2009	0.93
12/11/2009	0.21
12/12/2009	1.02
12/13/2009	0.17
1/17/2010	0.24
1/18/2010	1.15
1/19/2010	0.81
1/20/2010	1.53
1/21/2010	0.73
1/22/2010	0.47
1/26/2010	0.19
2/5/2010	0.88
2/6/2010	1.92
2/9/2010	0.49
2/19/2010	0.13
2/27/2010	1.16
3/3/2010	0.10
3/6/2010	0.43
4/5/2010	0.24
4/11/2010	0.71
4/12/2010	0.25
10/6/2010	0.19

Los Angeles Waterkeeper Notice of Violations and Intent to File Suite—Exhibit A
Days with Significant Rain Events (Rainfall above 0.1 inches)
December 2008-November 2013
AL 383 – Imperial Yard Rain Gauge

10/19/2010	0.16
10/24/2010	0.10
10/25/2010	0.15
10/30/2010	0.43
11/8/2010	0.15
11/20/2010	0.17
11/27/2010	0.12
12/5/2010	0.42
12/17/2010	0.55
12/18/2010	1.26
12/19/2010	3.11
12/20/2010	1.93
12/21/2010	1.12
12/22/2010	1.26
12/25/2010	0.59
12/26/2010	0.19
12/29/2010	0.76
1/2/2011	0.56
1/3/2011	0.12
1/30/2011	0.11
2/16/2011	0.31
2/18/2011	0.30
2/19/2011	0.20
2/25/2011	0.64
2/26/2011	0.26
3/2/2011	0.11
3/20/2011	1.41
3/21/2011	0.21
3/23/2011	0.51
3/24/2011	0.23
3/25/2011	0.18
3/27/2011	0.14
5/17/2011	0.30
5/18/2011	0.33
11/4/2011	0.17
11/6/2011	0.33
11/12/2011	0.17
11/20/2011	0.79
12/12/2011	0.85

Los Angeles Waterkeeper Notice of Violations and Intent to File Suite—Exhibit A
Days with Significant Rain Events (Rainfall above 0.1 inches)
December 2008-November 2013
AL 383 – Imperial Yard Rain Gauge

12/15/2011	0.46
1/21/2012	0.57
1/23/2012	0.50
3/17/2012	0.61
3/25/2012	0.85
3/26/2012	0.10
4/11/2012	0.39
4/13/2012	0.85
4/25/2012	0.27
4/26/2012	0.30
10/11/2012	0.75
11/17/2012	0.12
11/29/2012	0.17
11/30/2012	0.28
12/3/2012	0.31
12/13/2012	0.11
12/18/2012	0.18
12/24/2012	0.67
12/26/2012	0.26
12/29/2012	0.40
1/24/2013	0.77
1/25/2013	0.11
2/8/2013	0.25
2/19/2013	0.12
3/7/2013	0.18
3/8/2013	0.61
5/7/2013	0.15
11/29/2013	0.41